

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: KRISTINE SASSER
DEPUTY ATTORNEY GENERAL**

DATE: NOVEMBER 2, 2011

**SUBJECT: IDAHO POWER'S APPLICATION FOR A TERMINATION OF ITS
FIRM ENERGY SALES AGREEMENT WITH MAGIC WIND, CASE NO.
IPC-E-11-20**

On October 25, 2011, Idaho Power Company filed an Application with the Commission requesting termination of its Firm Energy Sales Agreement (Agreement) with Magic Wind, LLC. Specifically, Idaho Power requests that the Commission approve/acknowledge (1) the termination of the Agreement, (2) removal of Magic Wind from Idaho Power's interconnection queue; and (3) the disposition of amounts prepaid by Magic Wind for Idaho Power's transmission system network upgrades associated with the "cluster group" of generators that was the subject of Case No. IPC-E-06-21 (the "Cassia Wind" case).

BACKGROUND

On October 11, 2006, Idaho Power and Magic Wind entered into a 20-year Agreement pursuant to PURPA. Magic Wind's first energy date was scheduled to be July 31, 2007, and its Scheduled Operation Date was scheduled for December 31, 2007. The Commission approved the Agreement on December 21, 2006. Order No. 30206.

Magic Wind was unable to meet their December 31, 2007, Scheduled Operation Date. In December 2008, Idaho Power agreed to revise the Scheduled Operation Date to be September 30, 2010. Pursuant to the terms of the Agreement, the project must be on-line within ten months of the Scheduled Operation Date to avoid an event of default. Magic Wind failed to bring the project on-line.

On August 3, 2011, Idaho Power and Magic Wind entered into a final agreement ("Letter Agreement") allowing Magic Wind to extend its Scheduled Operation Date to September 30, 2012, so long as Magic Wind posted a delay security in the amount of \$45 per

kilowatt of the project's nameplate capacity by no later than September 30, 2011. In addition, the Letter Agreement required that Magic Wind pay or otherwise make credit arrangements with Idaho Power to pay the \$500,000 construction deposit for its interconnection (which was past due from June 30, 2011) no later than September 30, 2011. The parties agreed that if Magic Wind failed to post the delay security or the construction deposit by September 30, 2011, the Firm Energy Sales Agreement would be terminated without further notice. Magic Wind did not post either the required delay security or the required construction deposit by September 30, 2011. On October 4, 2011, Idaho Power sent Magic Wind a notice of termination of the Firm Energy Sales Agreement.

At the time Magic Wind's Agreement was submitted to the Commission for approval, the Cassia Wind case was also pending before the Commission. *See* IPC-E-06-21. The Cassia Wind case involved requests from (mostly PURPA) generators to integrate approximately 200 MW of new wind generation on Idaho Power's 138 kilovolt transmission system in the Twin Falls area (the "Cluster Group"). In June 2006, Idaho Power completed engineering studies which showed it would cost approximately \$60 million in network upgrades to interconnect the Cluster Group to Idaho Power's transmission system. The Cassia Wind case dealt with issues related to the appropriate allocation of network upgrade costs among individual projects within the Cluster Group and Idaho Power's other customers.

In August 2007, the Commission approved a settlement stipulation in the Cassia Wind case that set forth the methodology that would be used to allocate network upgrade costs among the individual Cluster Group projects and other Idaho Power customers. Order No. 30414. As part of the stipulation, Idaho Power estimated through a "redispatch study" that the total interconnection costs could be reduced from \$60 million to \$11 million if projects agreed to the potential redispatch of their project's output.

On March 9, 2010, Idaho Power sent a final Facility Study Report to the Cluster Group members (including Magic Wind). Invoices were sent to each member for their allocable share of the network upgrades. On April 9, 2010, Magic Wind tendered \$562,536.75 as payment for its allocable share. Idaho Power states that as of September 30, 2011, \$76,569.83 has been spent on network upgrades from Magic Wind's \$562,536.75 prepayment of allocated cluster group costs.

THE APPLICATION

Because the Firm Energy Sales Agreement was approved by the Commission in Order No. 30206, Idaho Power requests that the Commission acknowledge and/or approve the termination of the Commission-approved Agreement. Idaho Power also seeks Commission acknowledgement and/or approval for Idaho Power to remove Magic Wind from its interconnection queue. Magic Wind submitted a request to the Company's interconnection queue in May 2005. Because it has failed to timely submit the required construction deposits necessary for its interconnection to move forward, and ultimately failed to pay both the necessary delay security and interconnection construction deposits, Idaho Power states that Magic Wind has now forfeited its position in the interconnection queue.

The removal of Magic Wind from the interconnection queue will have a direct impact on the amounts that generators with a junior queue position to Magic Wind will be required to pay for network upgrades, including other members of the Cluster Group. Because other members will be directly impacted by the removal of Magic Wind from the queue, Idaho Power seeks acknowledgement and/or approval of such removal from the Commission. Finally, Idaho Power seeks acknowledgement and/or approval for the disposition of Magic Wind's prepaid funds and the reallocation of the Cluster Group network upgrade costs.

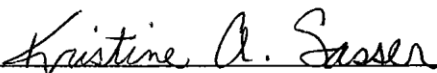
Idaho Power requests that its Application be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

STAFF RECOMMENDATION

Staff recommends that the case be processed by Modified Procedure with comments due no later than December 15, 2011.

COMMISSION DECISION

Does the Commission wish to process this case under Modified Procedure and set a comment deadline of December 15, 2011?



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Deputy Attorney General

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